

FILED

MAR 21 2001

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN ARMSTRONG, et al.,

No. C 94-02307 CW

Plaintiffs,

PERMANENT
INJUNCTION

v.

GRAY DAVIS, et al.,

Defendants.

Having found that the Governor, the Secretary of the Youth and Correctional Agency, and officials with the California Department of Corrections (CDC) have violated the Americans with Disabilities Act (ADA) and the Rehabilitation Act (RA), the Court enters the following injunction against all Defendants except the Chairman of the Board of Prison Terms:

1. Accessible Beds at the Deuel Vocational Institute (DVI).

The CDC shall have at least thirteen accessible beds in the Reception Center at the DVI.

2. Equivalent Programming.

The CDC shall offer the "Forever Free" or a substantially equivalent substance abuse program to disabled female inmates at a

1 designated institution.

2 3. Extended Reception Center Stays:

3 Any period of time beyond the initial sixty days of a disabled
4 inmate's stay at a Reception Center shall be referred to as the
5 inmate's extended stay.

6 If a disabled inmate remains at a Reception Center for more
7 than sixty days, a presumption arises that the extended stay is
8 solely due to the inmate's disability. To overcome this
9 presumption, the CDC must demonstrate that the inmate's transfer
10 out of the Reception Center was at no time delayed solely due to
11 the inmate's disability. In this case, the CDC need not
12 accommodate the inmate for the extended stay. Alternatively, the
13 CDC may demonstrate that the cumulative period of all disability-
14 related delays was shorter than the inmate's extended stay, in
15 which case the CDC need only accommodate the inmate for the
16 cumulative period of disability-related delays.

17 When it comes to the CDC's attention that a disabled inmate's
18 Reception Center stay has been extended beyond sixty days solely
19 due to the inmate's disability, the CDC shall accommodate the
20 inmate as described below. A disabled inmate may also file a CDC
21 Form 1824, Reasonable Accommodation or Modification Request, to
22 request accommodation for an extended stay.

23 Disabled inmates who remain at Reception Centers for extended
24 stays shall be granted, during their extended stays, privileges
25 that are available at mainline institutions. Disabled inmates who
26 remain at Reception Centers for extended stays and who are serving
27 sentences of less than one year shall, pursuant to the procedures
28

1 described below, receive sentencing credits that they could have
2 earned if they had been transferred to a mainline institution on
3 the sixty-first day of their Reception Center stay.

4 The central file of all inmates with disabilities received
5 from Reception Centers will be reviewed at the receiving program
6 institution to determine if the inmate's stay exceeded sixty days.
7 If so, the inmate's extended stay shall be presumed to be solely
8 due to the inmate's disability unless the CDC can overcome this
9 presumption as provided above.

10 If the inmate's disability was the sole cause, adjustment to
11 the inmate's worktime credits will be made, once the inmate is
12 received at the program institution, to reflect credits as if the
13 inmate were engaged in the work program on the sixty-first day.

14 4. Maintenance of Accessible Features and Equipment.

15 The CDC has a duty to maintain in operable working condition
16 structural features and equipment necessary to make the prison
17 system's services, programs, and activities accessible to disabled
18 inmates. Isolated or temporary interruptions in service or access
19 due to maintenance or repairs are not prohibited.

20 5. Grievance Procedures for Disabled Inmates and Parolees

21 A. The initial time frame for the CDC to respond to a
22 grievance must be less than thirty days; and

23 B. A nonemergency request for accommodation made through the
24 CDC Form 1824 process is not subject to exceptions from the time
25 limits for complex cases or for any administrative and operational
26 necessity that causes a delay.

1 6. Civil Addict Program.

2 The CDC shall provide accessible placements for disabled male
3 and female civil addicts in a Civil Addict Program (CAP) comparable
4 to that provided to nondisabled civil addicts.

5 7. Parole Region IV.

6 The CDC must provide at least one Community Correctional Re-
7 entry Center in Parole Region IV.

8 8. Facilities Operated Under Contract.

9 The CDC shall include substantially the following language in
10 all of its contracts for the operation of facilities that provide
11 services, programs or activities for inmates or parolees: "By
12 signing this contract, Contractor assures the State that it
13 complies with the Americans with Disabilities Act of 1990 (ADA), 42
14 U.S.C. § 12101 et seq., which prohibits discrimination on the basis
15 of disability, and with applicable regulations and guidelines
16 issued pursuant to the ADA."

17 THE COURT FINDS, pursuant to 18 U.S.C. § 3626(a)(1)(A), that
18 this injunction is narrowly drawn, extends no further than
19 necessary to correct the violation of the ADA and the RA and is the
20 least intrusive means necessary to correct those violations.

21 THE COURT SHALL retain jurisdiction to enforce the terms of
22 this injunction in accordance with the law. If Plaintiffs' counsel
23 have reason to believe that Defendants are not complying with the
24 terms of this injunction, they shall notify Defendants. The
25 parties shall attempt to resolve the issue informally before
26 pursuing any judicial remedy. Upon appropriate motion, the Court
27 may issue any order, including contempt, necessary to ensure that
28

1 Defendants comply with this injunction. Defendants may move to
2 modify this injunction based on a need to change a policy or
3 procedure. The Court shall grant Defendants' motion if the
4 proposed modification complies with the ADA and the RA. Prior to
5 making such a motion, Defendants must notify Plaintiffs of a
6 proposed change and provide them with the information necessary to
7 evaluate such modification.

8 IT IS SO ORDERED.

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12 Dated:

MAR 21 2001



CLAUDIA WILKEN

United States District Judge

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15 Copies mailed to counsel
16 as noted on the following page
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United States District Court
for the
Northern District of California
March 21, 2001

SCC

* * CERTIFICATE OF SERVICE * *

Case Number:4:94-cv-02307

Armstrong

vs

Davis

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on March 21, 2001, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

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